

JUN 6 2012

Federal Communications Commission  
Office of the Secretary

Before the  
**Federal Communications Commission**  
Washington DC 20554

In the Matter of

Ohmart/VEGA Corporation,  
Request for Waiver of Section 15.252  
To Permit the Marketing of Level  
Probing Radars in the 26 GHz Band

)  
)  
)  
)  
)  
)

ET Docket No. 10-23

ET Docket No. 10-27

**AMENDED REQUEST FOR WAIVER**

On December 3, 2009, Ohmart/VEGA Corporation requested a waiver of Section 15.252 so as to permit the marketing of outdoor level probing radars over the frequency range 24.6-27 GHz.<sup>1</sup>

On March 26, 2012, the Commission released a Further Notice of Proposed Rulemaking covering both in-tank and outdoor level probing radars in three bands: 5.925-7.250, 24.05-29, and 75-85 GHz.<sup>2</sup> The FNPRM proposed peak and average boresight limits, and “reflected” *in situ* average emissions limits.<sup>3</sup> The FNPRM indicated that the Ohmart/VEGA waiver request (and one other) raised issues that are similar in part to those raised in the NPRM, and that the Commission would hold the requests in abeyance pending final action in the rulemaking.<sup>4</sup>

<sup>1</sup> See Request for Waiver of Ohmart/VEGA Corporation in ET Docket No. 10-27 (filed Dec, 3, 2009). See also *Office of Engineering and Technology Declares the Ohmart/VEGA Corporation Request for a Waiver of Section 15.252 to be a “Permit-But-Disclose” Proceeding for Ex Parte Purposes and Requests Comments*, Public Notice, 25 FCC Rcd 10414 (released Jan. 26, 2010).

<sup>2</sup> *Regulations for Tank Level Probing Radars in the Frequency Band 77-81 GHz*, ET Docket No. 10-23, Further Notice of Proposed Rulemaking, FCC 12-34 (released March 26, 2012).

<sup>3</sup> *Id.* at ¶ 24.

<sup>4</sup> *Id.* at ¶ 9.



Ohmart/VEGA now amends its waiver request as follows: Ohmart/VEGA seeks a waiver pending the rulemaking, and subject to the outcome of the rulemaking, as to devices in the 5.925-7.250 and 24.05-29 GHz bands. Under this amended request, Ohmart/VEGA will comply in full with all of the proposed rules as laid out in the FNPRM. Ohmart/VEGA expects the waiver to terminate on the day that a Report and Order pursuant to the FNPRM takes effect, with certification applications submitted after that date required to comply with the terms of the Report and Order.

Ohmart/VEGA acknowledges its obligation to avoid causing harmful interference to any authorized spectrum user, and to have its end users cease operations if harmful interference cannot be eliminated any other way.<sup>5</sup>

As proposed in the original waiver request, Ohmart/VEGA will also comply with a condition suggested by the National Research Council's Committee on Radio Frequencies to protect the Earth Exploration Satellite Service (EESS) in the 22-29 GHz band, namely, an averaging time of 0.1 millisecond.<sup>6</sup>

Ohmart/VEGA carries over these additional proposed conditions from its original waiver request (the first three of which also appear in the FNPRM):

- Units must be professionally installed at fixed locations.
- Units must be installed with the radiating element pointing downward with no obstructions to the surface being measured (to limit scattering).
- No unit may be installed on residential property.

---

<sup>5</sup> 47 C.F.R. § 15.5.

<sup>6</sup> Comments of the National Academy of Sciences Committee on Radio Frequencies, in ET Docket No. 98-153 at 6-7 (filed July 16, 2003), available at: [http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native\\_or\\_pdf=pdf&id\\_document=6514286128](http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6514286128). CORF also requested that wideband devices not operate below 24 GHz, *id.* at 2-3, but that condition is built into the proposed rules.

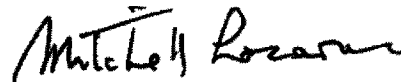


- Ohmart/VEGA will not deliver units for open-air installation at more than 500 sites in the 12 months following grant of the waiver, or a total of more than 1,000 sites in the 24 months following the grant. (These limits apply to sites, not to the number of units at each site, and do not include in-tank installations.) Numerical limits will not apply beyond 24 months unless the Commission otherwise notifies Ohmart/VEGA.
- No unit may be installed within a reasonable distance of EESS earth station sites, if necessary to protect EESS, with that distance to be agreed upon between Ohmart/VEGA and EESS representatives.
- Ohmart/VEGA will notify its customers of the foregoing conditions and, by contract, require those customers to similarly notify any downstream purchasers.

### CONCLUSION

The requested waiver will provide clear benefits to U.S. industry and to the public. Devices complying with the FNPRM rules and the conditions proposed above should be no more interfering to other spectrum users than the devices currently permitted under Sections 15.209 and 15.252. The Commission should therefore grant the waiver promptly.

Respectfully submitted,



Mitchell Lazarus  
FLETCHER, HEALD & HILDRETH, P.L.C.  
1300 North 17th Street, 11th Floor  
Arlington, VA 22209  
703-812-0440  
Counsel for Ohmart/VEGA Corporation

April 26, 2012



## COURTESY SERVICE LIST

Chairman Julius Genachowski  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Commissioner Robert McDowell  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Commissioner Mignon Clyburn  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Julius P. Knapp, Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Ira Keltz, Deputy Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Ron Repasi, Deputy Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Alan Stillwell, Deputy Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Bruce A. Romano, Esq., Associate Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Geraldine Matisse, Chief  
Policy and Rules Division  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Mark Settle, Deputy Chief  
Policy and Rules Division  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Karen Ansari, Chief  
Technical Rules Branch  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Anh Wride, Electronics Engineer  
Technical Rules Branch  
Office of Engineering and Technology  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Dr. Rashmi Doshi, Chief  
Laboratory Division  
Office of Engineering and Technology  
Federal Communications Commission  
7435 Oakland Mills Rd.  
Columbia, MD 21046

